UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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ART UNIT	PAPER NUMBER
2623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/059,547	KAMEN, YAKOV
	Examiner	**Art Unit**
	Hoang-Vu A. Nguyen-Ba	2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *31 October 2007*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-31* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some *   c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31, 2007 has been entered.

2.   Claims 1-31 are pending. Claims 1, 13 and 25 are independent claims.

Response to Amendments

3.   Per Applicant's request, claims 1, 13 and 25 have been amended.

4.   The rejection of Claims 13-24 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter is withdrawn in view of Applicant's amendment to the claims to recite a computer readable storage medium that would exclude intangible medium such as signals and carrier waves.

Response to Arguments

5.   Applicant's arguments in the Remarks section of the amendment filed October 31, 2007 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-5, 10-11, 13-17, 22-23, 25, 27 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,880,768 to Lemmons et al. ("Lemmons") in view of U.S. Patent No. 6,754,906 to Finseth.

Claims 1 and 13

Lemmons discloses at least:

determining a number of block instances available to a viewer in an interactive programming guide (IPG) (see at least FIG. 7, column 222, e.g., "73 Programs Found" and 13:12 - 16:7 - the determining step is determined by the selected search criterion column 202, e.g., Drama, Action, etc.; block instances are the different programs displayed in column 206, e.g., True Lies, Hurricane Smith, etc.);

determining a number of available information attribute sets to be presented to the viewer (see at least 13:12 - 16:7 - the claimed "available information attribute sets" are equated with search selection criteria presented in the search selection menu in column 202 and the sort criteria presented in the sort menu in column 204; the determining the number of available information attribute sets is interpreted to mean one of the following: if only one of the search criteria, e.g., Action, is selected, the program menu will display all the programs that are action related and the order of the listing of these programs is the default order; if however, the number of available information attribute sets is more than one,

e.g., Action and Alphabetized, the action-related programs will be listed in alphabetical order);

comparing the number of block instances with the number of available information attribute sets (see at least 13:12 - 16:7; the claimed comparing step is interpreted to mean the searching and sorting steps performed by the set-top box);

based on the comparison, mapping the available information attribute sets to the number of available block instances to generate mapped block instances (see at least 14:27-30 in the context of 13:12 - 16:7); *and*

displaying the mapped block instances contiguously (see at least FIG. 7, e.g., the programs displayed contiguously in the program menu 206).

Lemmons does not specifically disclose that the IPG is three-dimensional.

Finseth, in an analogous art, discloses that the IPG is three-dimensional (see at least FIG. 8A and 16:31-55).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Finseth with Lemmons, as this would provide extra organizational information to the user.

Claim 25

Lemmons discloses at least:

a processor (see at least FIG. 2, component 74); *and*

a memory coupled with processor (see at least FIG. 2, component 76), *the memory operable to include a first queue to store active data elements and a second queue to store inactive data elements, wherein the a number of block instances are compared with a number of available data elements* (see at least 13:12 - 16:7; the claimed comparing step is interpreted to mean the searching and sorting steps performed by the set-top box), *and*

> *wherein based on the comparison, the active data elements are displayed in visible block instances in an interactive programming guide (IPG)* (see at least 14:27-30 in the context of 13:12 - 16:7), *and wherein the visible block instances are displayed contiguously* (see at least FIG. 7, e.g., the programs displayed contiguously in the program menu 206).

Lemmons does not specifically disclose that the IPG is three-dimensional.

Finseth, in an analogous art, discloses that the IPG is three-dimensional (see at least FIG. 8A and 16:31-55).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Finseth with Lemmons, as this would provide extra organizational information to the user.

Claims 2, 14 and 26

The combination Lemmons-Finseth further discloses *wherein each of the mapped block instances is associated with one or more structure attributes* (see at least Lemmons; 15:25-61; e.g., program of interest highlighted indicating the presence of the cursor).

Claims 3 and 15

The combination Lemmons-Finseth further discloses *wherein when the number of available information attributes is less than the number of block instances, two or more block instances are mapped with the same information attributes* (see at least Lemmons; FIG. 7 and 13:46-52; when the number of search criteria – e.g., Action and Rating – is less than the number of programs, the action-related programs are listed under the header R – e.g., True Lies, Hurricane Smith, Speed).

Claims 4 and 16

The combination Lemmons-Finseth further discloses *wherein when the number of available information attributes is less than the number of block instances, one or more block instances is not visible to the viewer* (see at least Lemmons; FIG. 7 and 13:46-52; the remaining of the 78 programs found are not displayed on the screen of FIG. 7).

Claims 5 and 17

The combination Lemmons-Finseth further discloses *wherein when the number of available information attributes is less than the number of block instances, the number of displayed mapped block instances is less than the number of available block instances* (see at least Lemmons; FIG. 7 and 13:46-52; the remaining of the 78 programs found are not displayed on the screen of FIG. 7).

Claims 10, 22 and 29

The combination Lemmons-Finseth further discloses *wherein the mapped block instances are displayed contiguously on a surface* (see at least Lemmons; FIG. 7, e.g., the program menu 206).

Claims 11 and 23

The combination Lemmons-Finseth further discloses *wherein the surface is a bar* (see at least Lemmons; FIG. 7, column 206 which is a bar).

Claim 27

The combination Lemmons-Finseth further discloses *wherein each data element is associated with one or more structure attributes* (see at least Lemmons; 8:62-67).

Claim 30

The combination Lemmons-Finseth further discloses *wherein an inactive data element is displayed in a visible block instance by moving the inactive data element from the inactive queue to the active queue* (see at least Lemmons; 14:31-64, 15:47-55).

Claim 31

The combination Lemmons-Finseth further discloses *wherein an inactive data element is displayed in the visible block instance by swapping the inactive data element with an active data element being displayed in the visible block instance* (see at least Lemmons; 14:31-64, 15:47-55).

8.   Claims 6-7, 12, 18-19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,880,768 to Lemmons et al. ("Lemmons") in view of U.S. Patent No. 6,754,906 to Finseth and further in view of U.S. Patent No. 6,481,011 to Lemmons ("Lemmons011").

Claims 6 and 18

The combination Lemmons-Finseth does not specifically disclose *wherein each displayed mapped block instances is manipulated independently of the other displayed mapped instances.*

However, in an analogous art, Lemmons011 discloses the option to selecting assigning a color to selected program of interest (see at least FIG. 3, step 62) for the purpose of allowing a user to easily recognize a program when it appears in the program menu.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate this feature on Lemmons011 in the combination Lemmons-Finseth for the purpose discussed above.

Claims 7 and 19

The combination Lemmons-Finsth-Lemmons011 further discloses *wherein each displayed mapped block instance is manipulated by modifying the associated one or more structure attributes* (see at least Lemmons011, FIG. 3, steps 62-64).

Claim 12 and 24

The combination Lemmons-Finsth-Lemmons011 further discloses *wherein the surface is associated with one or more surface attributes* (see at least FIGs. 5-6).

9.   Claims 8-9 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,880,768 to Lemmons et al. ("Lemmons") in view of U.S. Patent No. 6,754,906 to Finseth, further in view of U.S. Patent No. 6,481,011 to Lemmons ("Lemmons011") and further in view of U.S. Patent No. 6,732,367 to Ellis et al. ("Ellis").

Claims 8 and 20

The combination Lemmons-Finseth-Lemmons011 does not specifically disclose *wherein each displayed mapped block instance is manipulated by modifying the associated one or more information attributes.*

However, in an analogous art, Ellis discloses how to not display objectionable title in the program menu and change the objectionable title to an unobjectionable or generic one (see at least FIG. 8-11 and 9:3-46) for the purpose of preventing children from being tempted to view potentially objectionable programs.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use this feature of Ellis in the combination Lemmons-Finsth-Lemmons011 for the same purpose discussed above.

Claims 9 and 21

The combination Lemmons-Finsth-Lemmons011 further discloses *wherein each displayed mapped block instance is manipulated by modifying the associated one or more structure attributes* (see at least Lemmons011, FIG. 3, steps 62-64).

The combination Lemmons-Finsth-Lemmons011 does not specifically disclose *wherein each displayed mapped block instance is manipulated by modifying the associated one or more information attributes.*

However, in an analogous art, Ellis discloses how to not display objectionable title in the program menu and change the objectionable title to an unobjectionable or generic one (see at least FIG. 8-11 and 9:3-46) for the purpose of preventing children from being tempted to view potentially objectionable programs.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use this feature of Ellis in the combination Lemmons-Finsth-Lemmons011 for the same purpose discussed above.

Conclusion

10.   Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hoang-Vu A. Nguyen-Ba whose telephone number is (571) 272-3701. The Examiner can normally be reached on Tuesday - Friday from 7:00 – 17:30.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist: 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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